

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL KEITH MILLER,)
)
Petitioner,) Civil Action No. 16-1211
)
v.) Judge Cathy Bissoon
) Magistrate Judge Robert C. Mitchell
UNITED STATES OF AMERICA, *et al.*,)
)
Respondents.)

ORDER OF DISMISSAL

Daniel K. Miller has filed, *pro se*, a Petition under 28 U.S.C. § 2241, purporting to challenge his pretrial detention in Criminal Action Number 15-174 (W.D. Pa., Bissoon, D.J., presiding). *See* Doc. 1. As the Court of Appeals for the Third Circuit has made clear, Petitioner has not invoked the proper mechanism. *Whitmer v. Levi*, 276 Fed. Appx. 217, 219, 2008 WL 1849803, *1 (3d Cir. Apr. 28, 2008) (“[w]here a defendant is awaiting trial, the appropriate vehicle for violations of his constitutional rights are pretrial motions or the expedited appeal procedure provided by the Bail Reform Act, . . . not a habeas corpus petition [under § 2241]”) (citation omitted). This deficiency warrants a *sua sponte* dismissal. *LeBron v. Ebbert*, 2015 WL 4545169, *3 (M.D. Pa. Jul. 27, 2015) (collecting cases holding that petitioner’s failure to exhaust remedies under § 2241 justifies *sua sponte* dismissal); *accord, e.g.*, *Whitmer*, at *1 *and* n.1 (affirming district court’s case-closure based on grounds recited above, and indicating that, although the closure “was without prejudice,” for reasons explained in the *Whitmer* Court’s opinion, “it [was] unlikely that [the] case [properly could] be resurrected”).

Consistent with the forgoing, Daniel K. Miller’s Petition under 28 U.S.C. § 2241 (**Doc. 1**) hereby is **DISMISSED**.

IT IS SO ORDERED.

August 26, 2016

s\Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via First-Class U.S. Mail):

Daniel Keith Miller (address of record in CIV 16-1211)
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Daniel K. Miller (courtesy copy, to Petitioner/Defendant's address of record in CR 15-174)
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